

DEPARTMENT OF STATE

WASHINGTON

August 21, 2002

Sir:

I have the honor to refer to recent discussions between our two Governments regarding the Treaty between the Government of the United States of America and the Government of Canada on Pacific Coast Albacore Tuna Vessels and Port Privileges, with annexes, signed at Washington May 26, 1981, as amended by the Exchange of Notes of October 9, 1997 (the "Treaty"). I also have the honor to refer to the Diplomatic Note of July 17, 2002, and your Note number 84 of August 13, 2002, in reply, which contained an agreement on a proposed amendment to Article 1(b) of the Treaty.

The Honorable

Bertin Côté,

Chargé d'Affaires ad interim
of Canada.

DIPLOMATIC NOTE

I have the further honor to propose certain amendments to the Treaty as follows:

1. Annex A is amended so that it reads in its entirety as follows:

ANNEX A

1.

- a. Each Party agrees to provide annually to the other Party a list of its fishing vessels which propose to fish albacore tuna off the coast of the other Party. The list will include (1) vessel name, (2) home port, (3) radio call sign or vessel identification marking that identifies the flag state of the vessel ("Vessel Identification Marking"), (4) fishing vessel registration number, and (5) captain or operator's name, if known.
- b. Each Party may provide the other Party with additions or deletions to its list at any time.
- c. As soon as possible after receipt, and subject to paragraph 1(d) below, the receiving Party shall satisfy itself that the list received meets the criteria of paragraph 1(a) and shall so inform the other Party in order to enable the albacore fishery to proceed pursuant to this Treaty.
- d. Should, due to serious or repeated fisheries violations or offenses, one Party object to the inclusion of a particular vessel on the list of the other Party, the two Parties shall consult. In this event, actions pursuant to paragraph 1(c), with regard to other vessels shall not be delayed. Following consultations, each Party shall notify its vessels which both Parties agree shall not be included on the list referred to in paragraph 1(c).

2. If required by either Party, each vessel shall, prior to entering and leaving the fishing zone of such Party, so inform the appropriate authorities and provide the vessel name, radio call sign or Vessel Identification Marking,

captain or operator's name and the purpose for being in such Party's fishing zone.

3. When in the fishing zone of the other Party, each vessel shall have its name and radio call sign or Vessel Identification Marking prominently displayed where they will be clearly visible both from the air and from a surface vessel.
4. Vessels of both Parties shall keep accurate log records while fishing pursuant to this Treaty.
5. In order that better information on the stocks of albacore tuna which migrate off the west coasts of the United States and Canada may be obtained, each vessel engaged in fishing pursuant to this Treaty shall provide to its government statistics and other scientific information on its operations in the fishing zone of the other Party. Each Party shall provide to the other Party such information and in particular the amount (weight) of albacore tuna caught by its vessels in waters under the fisheries jurisdiction of the other Party. Such information shall be provided on an annual basis and at least 30 days prior to the annual consultations referred to in paragraph 6 of this Annex. Other specific information to be provided, as well as the forms and procedures for providing such information, shall be agreed upon by the two Parties.
6. The Parties shall consult annually, inter alia, to:
 - a. discuss data and information on albacore tuna fisheries exchanged under paragraph 5 of this Annex; and
 - b. exchange information on their respective conservation and management measures for albacore tuna and on implementation of internationally agreed conservation and management measures applicable to the Parties related to fisheries covered under this Treaty.

The Parties shall also notify one another of the conservation and management laws and regulations applicable to vessels fishing in each other's waters pursuant to Article 1(b) of this Treaty.

2. A new "Annex C" shall be added and it shall read in its entirety as follows:

ANNEX C

1. The Parties agree to limit fishing by each Party's vessels engaged in fishing for albacore tuna in the waters under the fisheries jurisdiction of the other Party in accordance with the limitation regime (the "Regime") below, beginning on the first June 1st occurring after the date of entry into force of this Annex and expiring at the end of the third year of the Regime as set out in paragraph 5 below.
2. For purposes of this Annex, a "vessel fishing month" as it applies to a vessel of a Party shall mean any calendar month or part thereof in which that vessel is in the waters subject to the fisheries jurisdiction of the other Party for the purpose of fishing for albacore tuna in those waters.
3. During the first year of the Regime, which shall commence on the first June 1st occurring after the date of entry into force of this Annex and end on the following March 31st, each Party shall limit fishing for albacore tuna by its vessels in waters under the fisheries jurisdiction of the other Party to:
 - (a) 680 vessel fishing months; or
 - (b) 170 vessels with a limit of four calendar months fishing for each vessel.
4. During the second year of the Regime, which shall commence on the April 1st immediately following the end of the first year of the Regime and end on the following March 31st, each Party shall limit fishing for albacore tuna by its vessels in waters under the fisheries jurisdiction of the other Party to:
 - (a) 560 vessel fishing months; or
 - (b) 140 vessels with a limit of four calendar months fishing for each vessel.
5. During the third year of the Regime, which shall commence on the April 1st immediately following the end of the second year of the Regime and end on the following March 31st, each Party shall limit fishing for albacore tuna by its

vessels in waters under the fisheries jurisdiction of the other Party to:

- (a) 500 vessel fishing months; or
 - (b) 125 vessels with a limit of four calendar months fishing for each vessel.
6. In the event that in the first or second year of the Regime, fishing effort of vessels of a Party in waters under the fisheries jurisdiction of the other Party is less than the annual limit set out for that year in paragraph 3 or 4 above, the unused portion of that year's limit may be carried forward and added to the limit for any subsequent year of the Regime, provided that the resulting level of fishing effort in that year of the Regime shall not exceed the limit applicable during the preceding year of the Regime, excluding any carry over of unused fishing effort from any previous year of the Regime.
7. Twelve months prior to the expiration of this Regime, the Parties shall consult to consider a new limitation regime or extension of this Regime for one or more years.
8. If no agreement is reached and implemented by the Parties by the expiration of the Regime, then vessels of each Party may continue to fish for albacore tuna in waters subject to the fisheries jurisdiction of the other Party at a level no more than 75% of the limit applicable during the last year of the Regime, excluding any carry over of unused fishing effort from any previous year of the Regime, until a new agreement is reached and implemented.

If the above understandings are acceptable to your Government, I have the further honor to propose that this Note together with your Note in reply shall constitute an Agreement between our two Governments, which shall enter into force on the same date as the amendment to Article 1(b) of the Treaty enters into force in accordance with the terms of the agreement between our two Governments constituted by the exchange of Notes of July 17, 2002, and August 13, 2002.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Secretary of State:

Anthony F. Rock

A true copy of
the signed original.
AR

Canadian Embassy



Ambassade du Canada

Washington, September 10, 2002

Note No.0086

Excellency:

I have the honour to acknowledge receipt of your Note of 21 August, 2002, which reads as follows:

I have the honor to refer to recent discussions between our two Governments regarding the Treaty between the Government of the United States of America and the Government of Canada on Pacific Coast Albacore Tuna Vessels and Port Privileges, with annexes, signed at Washington May 26, 1981, as amended by the Exchange of Notes of October 9, 1997 (the "Treaty"). I also have the honor to refer to the Diplomatic Note of July 17, 2002 and your Note number 84 of August 13, 2002, in reply, which contained an agreement on a proposed amendment to Article 1(b) of the Treaty.

I have the further honor to propose certain amendments to the Treaty as follows:

1. Annex A is amended so that it reads in its entirety as follows:

ANNEX A

1.
 - a. Each Party agrees to provide annually to the other Party a list of its fishing vessels which propose to fish albacore tuna off the coast of the other Party. The list will include (1) vessel name, (2) home port, (3) radio call sign or vessel identification marking that identifies the flag state of the vessel ("Vessel Identification Marking"), (4) fishing vessel registration number, and (5) captain or operator's name, if known.
 - b. Each Party may provide the other Party with additions or deletions to its list at any time.
 - c. As soon as possible after receipt, and subject to paragraph 1(d) below, the receiving Party shall satisfy itself that the list received meets the criteria of paragraph 1(a) and shall so inform the other

Party in order to enable the albacore fishery to proceed pursuant to this Treaty.

- d. Should, due to serious or repeated fisheries violations or offenses, one Party object to the inclusion of a particular vessel on the list of the other Party, the two Parties shall consult. In this event, actions pursuant to paragraph 1(c), with regard to other vessels shall not be delayed. Following consultations, each Party shall notify its vessels which both Parties agree shall not be included on the list referred to in paragraph 1(c).
2. If required by either Party, each vessel shall, prior to entering and leaving the fishing zone of such Party, so inform the appropriate authorities and provide the vessel name, radio call sign or Vessel Identification Marking, captain or operator's name and the purpose for being in such Party's fishing zone.
3. When in the fishing zone of the other Party, each vessel shall have its name and radio call sign or Vessel Identification Marking prominently

displayed where they will be clearly visible both from the air and from a surface vessel.

4. Vessels of both Parties shall keep accurate log records while fishing pursuant to this Treaty.
5. In order that better information on the stocks of albacore tuna which migrate off the west coasts of the United States and Canada may be obtained, each vessel engaged in fishing pursuant to this Treaty shall provide to its government statistics and other scientific information on its operations in the fishing zone of the other Party. Each Party shall provide to the other Party such information and in particular the amount (weight) of albacore tuna caught by its vessels in waters under the fisheries jurisdiction of the other Party. Such information shall be provided on an annual basis and at least 30 days prior to the annual consultations referred to in paragraph 6 of this Annex. Other specific information to be provided, as well as the forms and procedures for providing such information, shall be agreed upon by the two Parties.

6. The Parties shall consult annually, *inter alia*, to:
 - a. discuss data and information on albacore tuna fisheries exchanged under paragraph 5 of this Annex; and
 - b. exchange information on their respective conservation and management measures for albacore tuna and on implementation of internationally agreed conservation and management measures applicable to the Parties related to fisheries covered under this Treaty.

The Parties shall also notify one another of the conservation and management laws and regulations applicable to vessels fishing in each other's waters pursuant to Article 1(b) of this Treaty.

2. A new "Annex C" shall be added and it shall read in its entirety as follows:

ANNEX C

1. The Parties agree to limit fishing by each Party's vessels engaged in fishing for albacore tuna in the waters under the fisheries jurisdiction of the other Party in accordance with the limitation regime (the "Regime") below, beginning on the first June 1st occurring after the date of entry into force of this Annex and expiring at the end of the third year of the Regime as set out in paragraph 5 below.
2. For purposes of this Annex, a "vessel fishing month" as it applies to a vessel of a Party shall mean any calendar month or part thereof in which that vessel is in the waters subject to the fisheries jurisdiction of the other Party for the purpose of fishing for albacore tuna in those waters.
3. During the first year of the Regime, which shall commence on the first June 1st occurring after the date of entry into force of this Annex and end on the following March 31st, each Party shall limit fishing for albacore tuna by its vessels in waters under the fisheries jurisdiction of the other Party to:

- a. 680 vessel fishing months; or
 - b. 170 vessels with a limit of four calendar months fishing for each vessel.

- 4. During the second year of the Regime, which shall commence on the April 1st immediately following the end of the first year of the Regime and end on the following March 31st, each Party shall limit fishing for albacore tuna by its vessels in waters under the fisheries jurisdiction of the other Party to:
 - a. 560 vessel fishing months; or
 - b. 140 vessels with a limit of four calendar months fishing for each vessel.

- 5. During the third year of the Regime, which shall commence on the April 1st immediately following the end of the second year of the Regime and end on the following March 31st, each Party shall limit fishing for albacore tuna by its vessels in waters under the fisheries jurisdiction of the other Party to:

- a. 500 vessel fishing months; or
 - b. 125 vessels with a limit of four calendar months fishing for each vessel.
6. In the event that in the first or second year of the Regime, fishing effort of vessels of a Party in waters under the fisheries jurisdiction of the other Party is less than the annual limit set out for that year in paragraph 3 or 4 above, the unused portion of that year's limit may be carried forward and added to the limit for any subsequent year of the Regime, provided that the resulting level of fishing effort in that year of the Regime shall not exceed the limit applicable during the preceding year of the Regime, excluding any carry over of unused fishing effort from any previous year of the Regime.
7. Twelve months prior to the expiration of this Regime, the Parties shall consult to consider a new limitation regime or extension of this Regime for one or more years.
8. If no agreement is reached and implemented by the Parties by the

expiration of the Regime, then vessels of each Party may continue to fish for albacore tuna in waters subject to the fisheries jurisdiction of the other Party at a level no more than 75% of the limit applicable during the last year of the Regime, excluding any carry over of unused fishing effort from any previous year of the Regime, until a new agreement is reached and implemented.

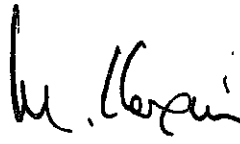
If the above understandings are acceptable to your Government, I have the further honor to propose that this Note together with your Note in reply shall constitute an Agreement between our two Governments, which shall enter into force on the same date as the amendment to Article 1(b) of the Treaty enters into force in accordance with the terms of the agreement between our two Governments constituted by the exchange of Notes of July 17, 2002 and August 13, 2002.

Accept, Excellency, the renewed assurances of my highest consideration.

I have the further honour to inform you that the Government of Canada accepts the proposal contained in Your Excellency's Note and to confirm that your Note and this Note in reply shall constitute an Agreement between our two Governments, which shall enter into force on the date of the second Note of a subsequent exchange of Notes confirming the completion of

all necessary internal procedures of each Party.

Accept, Excellency, the renewed assurances of my highest consideration.



Michael Kergin

Ambassador of Canada to the United States of America

The Honourable Colin L. Powell

Secretary of State

Washington, D.C.

